

**UNITED STATES BANKRUPTCY COURT FOR  
THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

In re:	§	Case No. 11-53580-lmc
Sandra Lee Scott-Hood	§	
	§	Chapter 13
	§	
DEBTOR	§	
	§	Judge: Leif M. Clark

**DEBTOR'S MOTION TO RECONSIDER AND/OR VACATE ORDER GRANTING  
MOTION FOR ORDERS CONFIRMING TERMINATION OF AUTOMATIC STAY,  
*DOCKET NO. 33*, AND FOR ORDER DETERMINING THAT STAY REMAINS IN  
EFFECT AS TO ACTIONS TAKEN AGAINST PROPERTY OF THE ESTATE.**

Now comes Debtor, Sandra Lee Scott-Hood, by and through undersigned counsel, hereby requests this Court vacate its Order Determining Status of Automatic Stay, *Docket No. 33*, entered on March 6, 2012, and that this Court enter an order determining that the Automatic Stay remains in effect as to actions taken against property of the Debtor's Bankruptcy Estate.

The reasons for Debtor's request are more fully set forth in the memorandum below.

Date: March 16, 2012.

Respectfully submitted,

/s/ Joris Robert Vanhemelrijck  
Joris Robert Vanhemelrijck (24056468)  
Attorney for Debtor  
*VANHEMELRIJCK LAW OFFICES, LP.*  
1100 N.W. Loop 410, Suite 215  
San Antonio, TX 78213  
Ph: (210) 804-1529  
Fax: (866) 830-3521  
joris@vanlwas.com

## MEMORANDUM IN SUPPORT

In support of this motion, Debtor would show the Court as follows:

1. Debtor filed for protection under Chapter 13 of the United States Bankruptcy Code on October 11, 2011.
2. Debtor admits having a prior bankruptcy case that was pending within the preceeding one year period but was dismissed prior to this case. As such, pursuant to 11 U.S.C. § 362(c)(3)(A), the automatic stay created under 11 U.S.C. § 362(a) has terminated only with respect to actions taken against the Debtor, but not against actions taken against property of the Estate.
3. Unlike 11 U.S.C. § 362(c)(4)(A)—which is applicable to Debtors with two or more prior cases dismissed within the prior year and which terminates the stay created under 11 U.S.C. § 362(a) in its entirety—the plain language of 11 U.S.C. § 362(c)(3)(A), which is applicable in Debtor’s case, clearly states that the automatic stay created under 11 U.S.C. § 362(a) terminates only with respect to actions taken against the Debtor. While there seems to be confusion amongst the circuit courts as to the ambiguity in the language of 362(c)(3)(A), and whether it terminates the stay in its entirety or partially against the debtor, property of the debtor, or property of the Estate, the majority of courts have found there is no ambiguity in the plain language of 11 U.S.C. § 362(c)(3)(A). In 2008, the 10th Circuit Bankruptcy Appellate Panel succinctly stated “Nowhere in § 362 does Congress use the phrase “with respect to the debtor” as incorporating the debtor, the debtor's separate property, and property of the Estate. In fact, ‘section 362(a)

differentiates between acts against the debtor, against property of the debtor and against property of the Estate’.” *In re Holcomb*, 380 B.R. 813, 816 (B.A.P. 10th Cir., 2008) (quoting, *In re Jones*, 339 B.R. 360, 363 (Bankr. E.D.N.C. 2006).) Additional support for the distinction between the debtor, property of the debtor, or property of the Estate is found in the 1st Circuit Bankruptcy Appellate Panel’s 2006 decision of *In re Jumpp*, wherein that court found these distinctions by stating “Section 362(a) enumerates which acts and actions are stayed, differentiating between the debtor, property of the debtor, and property of the Estate, ...” In contrast, a minority of courts have created ambiguity where there is none, when discussing if there are three (3) distinct entities in bankruptcy (the debtor, property of the debtor, or property of the Estate) by arguing “the language of § 362(c)(3)(A) is capable of more than one interpretation and is inconsistent with the overall statutory scheme.” *In re Holcomb*, 380 B.R. 813, 815 (B.A.P. 10th Cir., 2008) (quoting, *In re Curry*, 362 B. R. 394, 400-01 (Bankr. N. D. Ill 2007).) The minority has held there is no differentiation between the debtor, the debtor's separate property, and property of the Estate at the time the stay terminates, and have accordingly held the stay terminates in its entirety. See *In re Reswick*, 446 B.R. 362 (B.A.P. 9th Cir., 2011; *In re Jupiter*, 344 B.R. 754 (Bankr. D.S.C. 2006). However, the ambiguity in the language does not exist. The language is quite clear that the stay terminates as to the debtor and her property but not the property of the bankruptcy Estate. (See *In re Holcomb*, 380 B.R. 813, 816 (B.A.P. 10th Cir., 2008) wherein the court held “we conclude that the language of § 362(c)(3)(A) terminates the stay only as to the debtor and the debtor's property.”; *In re Jumpp*, 356 B.R. 789, 797 (B.A.P. 1st Cir., 2006), the court held “the automatic

- stay remains in effect to the extent that the residence is property of the bankruptcy Estate”; and *In re Jones*, 339 B.R. 360, 365 (Bankr. E.D.N.C. 2006) the oft quoted Judge Smalls held “§ 362(c)(3)(A) terminates the stay with respect to actions taken against the debtor and against property of the debtor, but does not terminate the stay with respect to property of the Estate.”)
4. Pursuant to 11 U.S.C. §541 and §1306, upon filing of Debtors current petition for protection under Chapter 13 of the United States Bankruptcy Code, all of Debtor’s property vested into the Bankruptcy Estate. Further, pursuant to 11 U.S.C. § 1327(b) & (c) and §1322(b)(9) said property was set to vest back in the Debtor upon confirmation of Debtor’s plan, unless, Debtor’s plan vests the property back the Debtor at a later date. Debtor’s Plan—which complies with the form Chapter 13 Plan used in this jurisdiction—will not vest the property back in the Debtor until the completion of all payments made under the Plan.
  5. As such, all of Debtor’s property, including but not limited to Debtors home, remains property of the Estate; and thus, actions taken against said property remain to be prohibited by 11 U.S.C. § 362(a).

WHEREFORE Debtor respectfully requests that this Court vacate its Order Determining Status of Automatic Stay, *Docket No. 33*; that this Court enter an order grant Debtor any other relief that this Court deems appropriate.

Date: March 16, 2012.

/s/ Joris Robert Vanhemelrijck  
Joris Robert Vanhemelrijck (24056468)  
Attorney for Debtor  
*VANHEMELRIJCK LAW OFFICES, LP.*  
1100 N.W. Loop 410, Suite 215  
San Antonio, TX 78213

Ph: (210) 804-1529  
Fax: (866) 830-3521  
[joris@vanlaws.com](mailto:joris@vanlaws.com)

**UNITED STATES BANKRUPTCY COURT FOR  
THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

In re:	§	Case No. 11-53580-lmc
Sandra Lee Scott-Hood	§	
	§	Chapter 13
	§	
DEBTOR	§	
	§	Judge: Leif M. Clark

**NOTICE AND CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing attached motion was served this date via regular US mail and/or electronically as permitted by the Local Bankruptcy Rules on the parties whose names and full addresses are listed below and for NOTICE that the attached motion has been filed.

Date: March 16, 2012.

/s/ Joris Robert Vanhemelrijck  
Joris Robert Vanhemelrijck (24056468)  
Attorney for Debtors  
*VANHEMELRIJCK LAW OFFICES, LP.*  
1100 N.W. Loop 410, Suite 215  
San Antonio, TX 78213  
Ph: (210) 804-1529  
Fax: (866) 830-3521  
[joris@vanlaws.com](mailto:joris@vanlaws.com)

Mary K Viegelahn  
San Antonio Chapter 13 Trustee  
909 NE Loop 410, Suite 400  
San Antonio, TX 78209

United States Trustee - SA12  
US Trustee's Office  
615 E Houston, Ste 533  
PO Box 1539  
San Antonio, TX 78295-1539

**Sandra Lee Scott-Hood**  
1907 Desert Willow  
San Antonio, TX 78227

Air Force Federal Credit Union  
1560 Cable Ranch Road, Ste 200  
San Antonio, TX 78245

American Education Services  
PO BOX 2461  
Harrisburg, PA 17105-8147

American Honda Finance  
National Bankruptcy Center  
P.O. Box 168088  
Irving, TX 75016-8088

American Infsource LP  
PO BOX 71083  
Charlotte, NC 28272

AT&T  
PO BOX 769  
Arlington, TX 76004

AT&T U-VERSE  
PO BOX 1857  
Alpharetta, GA 30023

Attorney General  
Child Support  
P.O. Box 12017  
Austin, TX 78711

B-Line, LLC  
Po Box 911121  
Dept 550  
Seattle, WA 98111

Bank Of America  
Po Box 15026  
Wilmington, DE 19850-5026

Bexar County  
c/o Donald P. Stecker  
Linebarger Goggan Blair & Sampson, LLP  
711 Navaro, Suite 300  
San Antonio, TX 78205

BHS Physicians Network Inc  
PO BOX 840081  
Dallas, TX 75284

Burg Simpson Eldridge PC  
40 iverness Drive East  
Englewood, CO 80112

Capella University  
Capella Tower  
225 South 6th Street, 9th Floor  
Minneapolis, MN 55402

Capital One  
PO Box 30285  
Salt Lake City, UT 84130-0285

CBA Collecttion Bureau  
Po Box 5013  
Hayward, CA 94540

Chase  
Po Box 15298  
Wilmington, DE 19850

Chase Home Mortgage  
c/o BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, L.L.P.  
1900 St. James Place, Ste 500  
Houston, TX 77056

Chase Manhattan Mortgage  
3415 Vision Dr  
Columbus, OH 43219

Citibank  
Attn: Citicorp Credit Services,  
7920 NW 110th Street  
Kansas City, MO 64153

Citibank  
Attn: Centralized Bankruptcy  
Po Box 20507  
Kansas City, MO 64195

Citibank Student Loans  
Attn: Bankruptcy  
Po Box 6191  
Sioux Falls, SD 57117

Citibank Usa  
Citicorp Credit Services/Attn: Centraliz  
Po Box 20363  
Kansas City, MO 64195



Citifinancial  
Bankruptcy Department  
P.O. Box 140069  
Irving, TX 75014-0069

Clifford & Wills  
Po Box 2210  
Portland, OR 97208

Conns Credit Corp  
3295 College St  
Beaumont, TX 77701

Credit Management  
4200 International Pwy  
Carrolton, TX 75007

Department of Education  
Po Box 9635  
Wilkes Barre, PA 18773

Diversified Adjustment  
600 Coon Rapids Blvd NW  
Minneapolis, MN 55433

DSRM National Bank  
Po Box 631  
Amarillo, TX 79105

eCAST Settlement Corporation  
PO Box 35480  
Newark, NJ 07193-5480

ECMC  
Po Box 75906  
Saint Paul, MN 55175

Equifax  
PO Box 740241  
Atlanta, GA 30374

Experian  
PO Box 9701  
Allen, TX 75013

First Premier Bank  
3820 N Louise Ave  
Sioux Falls, SD 57107

GE Money Bank  
Attn: Bankruptcy  
PO Box 103104  
Roswell, GA 30076

Great American Recipes  
Po Box 26596  
Lehigh Valley, PA 18002

HSBC  
P.O. Box 2013  
Buffalo, NY 14240

Hsbc Bank  
Po Box 5253  
Carol Stream, IL 60197

HUD  
800 Dolorosa Street #417  
San Antonio, TX 78207-4563

Internal Revenue Service  
Special Procedures-Insolvency  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Law Office of Francisco M. Sepeda  
1837 Fredericksburg Rd  
San Antonio, TX 78201

Medical Interest Inc  
4319 Medical Dr #213  
San Antonio, TX 78229

Melissa Ortiz  
115 E. Travis #114  
San Antonio, TX 78205

Merrick Bank  
c/o Resurgent Capital Services  
PO BOX 10368  
Greenville, SC 29603

Methodist Hospital  
PO Box 99400  
Louisville, KY 40269

Methodist Hospital  
7700 Floyd Curl Dr  
San Antonio, TX 78229

Military Star  
AAFES  
Po Box 650060  
Dallas, TX 75265

NCO Financial Services  
PO Box 15393  
Wilmington, DE 19850

North Star Capital  
Acquisitions LLC  
c/o Jefferson Capital Systems  
Po Box 7999  
Saint Cloud, MN 56302

North Star Capital Acquisitions LLC  
c/o Jefferson Capital Systems LLC  
Po Box 7999  
Saint Cloud, MN 56302

Palisades Collection, LLC  
PO BOX 19249  
Sugar Land, TX 77496

Performance Capital Management  
PO BOX 4115  
Concord, CA 94524

Premier Auto Finance  
Attn: Bankruptcy  
Po Box 3999  
St Joseph, MO 64503

Propia Persona  
1700 Jackson Keller Rd, Apt 604  
San Antonio, TX 78213-3253

Recovery Management Systems Corp  
25 SE 2nd Ave, Ste 1120  
Miami, FL 33131

Roundup Funding LLC  
MS 550  
PO BOX 91121  
Seattle, WA 98111

Sallie Mae Servicing  
PO Box 9430  
Wilkes Barre, PA 18773

Sallie Mae Servicing  
TGSLC  
P.O. Box 83100  
Round Rock, TX 78683

Security Service FCU  
Po Box 691510  
San Antonio, TX 78269

Security Service-ins  
Po Box 691510  
San Antonio, TX 78269

South Texas MRI  
7930 Floyd Curl Drive # 2  
San Antonio, TX 78229-3925

South Texas Radiology Group  
7950 Floyd Curl Dr Ste SL-21  
San Antonio, TX 78229

Stores Online  
1303 North Research Way, Bldg. K  
Orem, UT 84097

Stores Online  
1303 North Research Way, Bldg. K  
Orem, UT 84097

Sw Diagnostic Center  
88 Briggs Ave Suite 110  
San Antonio, TX 78224

Target Credit Card (TC)  
C/O Financial & Retail Services  
Mailstop BT P.O. Box 9475  
Minneapolis, MN 55440

Texas Comptroller  
PO Box 13528  
Austin, TX 78711-3528

Texas Workforce  
101 E 15th Room 330  
Austin, TX 78701

Time Warner Cable  
PO Box 460849  
San Antonio, TX 78246

Trans Union  
PO Box 2000  
Chester, PA 19022

UDSC, LLC  
PO BOX 148  
Saint Joseph, MO 64502

United Data Services  
702 Felix St  
Saint Joseph, MO 64501

United States Attorney  
601 N.W. Loop 410, Suite 600  
San Antonio, TX 78216

United States Attorney  
SOCIAL SECURITY ADMINISTRATION  
601 N.W. Loop 410, Suite 600  
San Antonio, TX 78216

United States Attorney  
IRS/HUD/VA/Department of Education  
601 N.W. Loop 410, Suite 600  
San Antonio, TX 78216

United States Attorney General  
Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

United States Attorney General  
IRS/HUD/VA/Department of Education  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

United States Attorney General  
SOCIAL SECURITY ADMINISTRATION  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

USA Funds  
Attn: Bankruptcy  
11100 USA Parkway  
Fishers, IN 46037

VA Regional Office  
Office of District Counsel  
2515 Murworth Drive  
Houston, TX 77054

Washington Mutual  
Po Box 15298  
Wilmington, DE 19850

Wells Fargo  
PO Box 7648  
Boise, ID 83707